

STATE OF MICHIGAN
COURT OF APPEALS

NICOLE WELLS,

Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

UNPUBLISHED

October 15, 2020

No. 350615

Branch Circuit Court

LC No. 17-110595-CD

Before: MURRAY, C.J., and CAVANAGH and CAMERON, JJ.

PER CURIAM.

Plaintiff appeals as of right an order granting defendant’s motion for summary disposition and dismissing plaintiff’s claims alleging employment discrimination and retaliation. We affirm.

In November 2017 plaintiff filed a complaint against defendant asserting that she began working for defendant at the Lakeland Correctional Facility in the summer of 2015 as a corrections officer. She stated that on June 20, 2016 she filed a charge of discrimination based in part on allegations that she received inadequate training and was improperly disciplined because she was a female and an African-American. Plaintiff was subsequently terminated. Plaintiff averred in her complaint that the grounds for termination included that her alleged computer use presented “aggravating circumstances,” that she received an unsatisfactory performance rating on June 21, 2016, and that she had been disciplined in January 2016. Plaintiff alleged in her complaint that the reasons for her termination were mere pretext and did not motivate her termination; rather, she was terminated because of her gender and race. In Count I, plaintiff asserted a discrimination claim premised on the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.* and Title VII of the Civil Rights Act of 1964, 42 USC 2000e *et seq.* In Count II, plaintiff asserted a retaliation claim in violation of MCL 37.2701(a).

On September 19, 2018, defendant filed a motion for summary disposition under MCR 2.116(C)(10), asserting that no genuine issue of material fact existed and that defendant was entitled to judgment as a matter of law. In particular, defendant argued that plaintiff “was terminated for excessive computer use while on duty after receiving progressive discipline for other actions.” And the evidence unquestionably established that the decision to terminate

plaintiff's employment had nothing to do with her gender, her race, or any retaliatory animus. Defendant explained that plaintiff began her employment in June of 2015, and was a probationary employee for the first 12 months—as is customary. During that probationary period, plaintiff was disciplined while working as a gate officer because, on January 26, 2016, she failed to properly verify the identity of a prisoner, and thus, allowed the wrong prisoner to enter Lakeland Correctional Facility during a transfer. After an investigation, plaintiff was given a three-day suspension.

Defendant further explained that plaintiff received an overall “unsatisfactory evaluation” on her 12-month performance review. There were numerous deficiencies noted with regard to her required performance objectives, including plaintiff's failure to follow proper policy and procedure with regard to her job duties; unprofessional communication skills with respect to addressing authority figures, as well as in using the radio and telephones, and addressing staff and prisoners; and lack of professionalism while performing her job duties as well as during interactions with staff and prisoners (for example, she openly discussed her own personal health information and complained about her assignment). There were also numerous deficiencies noted with regard to required competencies, including in the areas of adaptability, applied learning, communication, decision making, interpersonal skills, job knowledge, stress tolerance, and valuing diversity and inclusion. Plaintiff's supervisor noted that plaintiff was “incapable of taking instruction and applying it to her job related tasks;” she had an abrupt and abrasive attitude toward visitors and staff while assigned to the gate position which resulted in several complaints against her; she received additional training and verbal counseling “for her lack of and unprofessional communication skills and techniques;” she isolated herself from other staff members especially in stressful situations; she left her housing unit assignment to go to the vending machine without being properly relieved; she had shown poor job understanding when dealing with stressful situations; and she had a defensive manner that interfered with her ability to learn and receive instruction. Because of this unsatisfactory evaluation, as well as the January 26, 2016 violation, plaintiff's probationary period was extended from June 2016 through December 2016.

According to defendant, plaintiff's performance did not improve. In fact, just a month after having her probationary period extended, plaintiff was observed using a work computer for personal use—which is strictly prohibited. Plaintiff admitted in her deposition that she was given the computer use policy in training before starting her employment but she did not read it. After an investigation was conducted, it was determined that plaintiff had been using the work computer for personal use on a regular basis, including that she skyped people outside the facility and visited “Facebook” during her shift. Plaintiff admitted using work computers for personal use. Because plaintiff was already on an extended probationary period for an unsatisfactory performance rating and this was her second major rule violation during her short tenure, the discipline coordinator determined that plaintiff should be terminated. Thus, plaintiff was terminated in November 2016.

Defendant argued that plaintiff's discrimination lawsuit must be dismissed because her gender and race played no role whatsoever in the decision to terminate her employment and there was no evidence to support such claims. In particular, defendant argued, plaintiff could not establish that she was treated differently for the same or similar conduct than individuals outside her protected classes. With regard to the January 2016 gate incident, some transportation officers were disciplined for the incident; however, plaintiff was the only employee of Lakeland Correctional Facility disciplined because she was the sole person responsible for checking the

identification of prisoners coming through the gate and she failed to perform her job. Plaintiff claimed that she was not properly trained because of her race and gender but her claim was wholly without merit. She did receive the necessary training to be a gate officer and she was also provided with written post orders which detailed the duties of that position but plaintiff admitted that she failed to read those post orders. With regard to the computer usage issue, defendant argued, plaintiff had no evidence that she was treated differently for the same or similar conduct—excessive computer use, including while on a probationary rating—than a male or Caucasian employee. In fact, defendant’s discipline coordinator, Jennifer Nanasy, testified in her affidavit that she had never seen an investigatory report showing so much non-work-related computer usage.

Further, defendant argued, plaintiff’s retaliation claim must be dismissed as a matter of law because there was no causal connection between her alleged protected activity and her termination. Plaintiff’s complaint indicated that she filed a charge of discrimination on June 20, 2016. However, plaintiff was served written notice of the charge against her for the gate incident on May 31, 2016. The disciplinary conference was held on June 7, 2016—before plaintiff filed her charge of discrimination. Plaintiff was not terminated until November 2016. But even if plaintiff could establish a *prima facie* case of discrimination, defendant had a legitimate, non-discriminatory reason for terminating her: she violated defendant’s work rules, was unable to work with those persons in authority, and could not perform the essential functions of her job. Accordingly, defendant argued, plaintiff’s complaint should be dismissed in its entirety. Defendant attached numerous exhibits to its motion for summary disposition, including employee disciplinary reports and associated documents for the incidents discussed above, as well as excerpts from plaintiff’s deposition testimony of September 7, 2018, and the affidavit of Nanasy, defendant’s discipline coordinator.

Plaintiff filed a response to defendant’s motion for summary disposition, arguing that defendant’s motion should be denied. Plaintiff asserted that her four-month and eight-month performance reviews indicated that she met expectations. She admitted that she was involved in a prisoner mis-transfer in January 2016, but claimed that two other corrections officers were involved in the mis-transfer—Julie Ferguson and Sergeant Charles Beacham—but they were not disciplined like she was disciplined. Ferguson received a one-day suspension and Beacham received no discipline.

Plaintiff asserted that her 12-month performance review was due on June 10, 2016. She had heard that other officers had received their reviews for that same time period so she became concerned and, during the week of June 5, 2016, she asked Captain Christopher DeKeyser if her review was completed. He said that it was not. She “then directly asserted to him that she believed she was being discriminated against causing her to have a delay in her 1-year review.” On or about June 20, 2016, plaintiff filed an internal written complaint claiming that she was being discriminated against because of her gender and race by both DeKeyser and Bonita Hoffner—the warden of Lakeland Correctional Facility. The next day after she submitted her complaint, Captain DeKeyser provided plaintiff with her 12-month performance review which indicated that she was performing her job unsatisfactorily. Plaintiff also claimed that, within a few weeks of filing her internal complaint, she was told by Sergeant Beacham that “he and other employees were directed to write her up for everything.” Shortly thereafter, plaintiff was observed using a computer for

personal use which led to a formal investigation and her termination. However, other employees who used work computers for personal reasons were only given verbal warnings.

Plaintiff argued that the evidence in support of her race discrimination claim included that she is African-American, was subject to a probation extension and termination, although she was qualified for the position, and other similarly situated individuals received less discipline than her concerning the prisoner transfer issue and prohibited computer usage. In particular, Julie Ferguson was a Caucasian at the Cooper Street Facility and she processed a prisoner that was not properly identified but only received a one-day suspension. Sergeant Beacham was a Caucasian who worked at Lakeland Correctional Facility and he did not properly identify the prisoner either but he was not assessed any discipline. Plaintiff was assessed a three-day suspension; thus, the two Caucasian employees received more favorable treatment. Moreover, the discipline plaintiff received for the computer use was far greater and severe in comparison to other employees of a different race; namely, Lucus Losinski, and persons with the last names of Veysey-White and Mohon. These are Caucasians and they only received verbal warnings for using work computers for personal reasons. Plaintiff did not have any response to defendant's motion for summary disposition as to her claims of discrimination based on her gender.

But plaintiff did argue that her retaliation claim should not be dismissed because she engaged in protected activity (reporting discrimination verbally and in writing), defendant was aware of her protected activity, and she was subject to a probation extension and termination. Plaintiff argued that there was a causal connection between her protected activity and the adverse employment action because there was no factual basis for the probation extension and termination considering her four-month and eight-month performance reviews which indicated that she "meets expectations." Accordingly, plaintiff argued that defendant's motion for summary disposition should be denied.

In support of her response to defendant's motion for summary disposition, plaintiff attached her own affidavit dated January 22, 2019. Plaintiff averred that her four-month performance review covered the time period of June 22, 2015 to October 9, 2015 and indicated that she "meets expectations." The eight-month performance review covered the time period of October 10, 2015 to February 22, 2016 and indicated that she "meets expectations." Around the time her 12-month review was due, she asked about it and it was not completed yet. She asked her supervisor Captain DeKeyser "if the delay was on account of discrimination." Plaintiff then filed an internal written complaint on June 20, 2016, alleging race and sex discrimination. On June 21, 2016, she was provided with her 12-month performance review which indicated that she was "unsatisfactory." However, the incidents detailed in the review all occurred as early as December 1, 2015 and as late as February 1, 2016—but they were not listed in the previous performance reviews. Shortly after filing the internal complaint, plaintiff averred, she was told by Sergeant Beacham that she was "on the radar" and they were to write her up for anything they saw. Within about two weeks of being informed she was "on the radar," she was formally investigated for using work computers for personal reasons. Plaintiff stated that other employees also used work computers for personal reasons but had only received verbal warnings and were not formally investigated.

Plaintiff also filed a supplemental brief in opposition to defendant's motion for summary disposition which included a supplemental affidavit from plaintiff, as well as affidavits from

Sergeant Beacham and her attorney, Jason Pelak. Plaintiff identified three incidents in her supplemental affidavit including one in September 2015 in which Captain DeKeyser allegedly told her that she needed to make herself more likeable; an incident in March 2016 where Luke Losinski commented to her that “black people hold a gun sideways” which she reported this racially inappropriate comment to Captain DeKeyser; and an incident in May 2016 where she advised Sergeant Beacham that she would have to use the bathroom more often because she was menstruating, which was overheard by another officer, and then a couple days later Lieutenant Christine Borst gave her a verbal warning about discussing her personal issues. The affidavit of Sergeant Beacham stated that he is a Caucasian male and signed a prisoner transfer detail which identified the wrong prisoner on January 26, 2016 but was not disciplined. He also averred that he was in a meeting in June 2016 where instruction was given to write plaintiff up “over any work-rule violation.” He told plaintiff about this instruction.

The affidavit of Jason Pelak—plaintiff’s attorney—indicated that he reviewed documents produced by defendant and it appeared that no other corrections officer was investigated or terminated for misuse of a computer while at work “from 2015 to present.” Pelak also averred that he attached plaintiff’s performance reviews which were produced by defendant in response to a request for production of documents. Upon review it appears that plaintiff’s four-month performance review was dated October 8, 2015 by supervisor Shane Gray and he indicated that plaintiff “meets expectations.” Plaintiff’s eight-month performance review was dated February 26, 2016 by Captain DeKeyser and indicated that while she “meets expectations,” plaintiff needed improvement in two competencies: communication and interpersonal skills. Plaintiff’s 12-month performance review was dated June 21, 2016 by Captain DeKeyser and her rating was “unsatisfactory.” The numerous performance and competency deficiencies were accurately set forth in defendant’s motion for summary disposition as detailed above.

On May 7, 2019, the trial court heard oral arguments on defendant’s motion for summary disposition and the parties argued consistent with their briefs.¹ Thereafter, the court entered an order for further briefing on the issue whether “there is a different standard to be applied to a probationary correction officer’s discipline and/or termination in comparison to the standard applied to a tenured correction officer’s discipline and/or termination.” Plaintiff responded that, in brief, there was no different standard applicable to probationary employees and non-probationary employees; the standard for imposing discipline was “just cause.” To the contrary, defendant responded that there is a different standard in the sense that probationary employees are being tested during the probationary period and are not considered “status” employees until that period is successfully completed after several performance ratings. Probationary employees have different rights, including very limited grievance rights, than status employees and are not guaranteed continued employment. The fact that a probationary employee is disciplined is considered an aggravating factor that leads to more severe discipline than a status employee might receive for similar misconduct.

¹ As with her brief, in oral argument plaintiff’s counsel only focused on plaintiff’s claim of race discrimination; no mention was made regarding alleged gender discrimination.

On August 27, 2019, the trial court entered an order granting defendant's motion for summary disposition. The court adopted "the law, logic and rationale provided by the Defendant's original motion and brief for summary disposition, and as further supplemented with defendant's brief in response to this Court's order for further briefing." This appeal followed.

Plaintiff argues that the trial court erred in summarily dismissing her employment discrimination claim based on race.² We disagree.

We review de novo a trial court's decision to grant a motion for summary disposition. *Sheridan v Forest Hills Pub Sch*, 247 Mich App 611, 620; 637 NW2d 536 (2001). A motion brought under MCR 2.116(C)(10) tests whether there is factual support for a claim and should be granted if, after review of the admissible evidence, no genuine issue of material facts exists. *Sisk-Rathburn v Farm Bureau Gen Ins Co of Mich*, 279 Mich App 425, 427; 760 NW2d 878 (2008). "There is a genuine issue of material fact when reasonable minds could differ on an issue after viewing the record in the light most favorable to the nonmoving party." *Allison v AEW Capital Mgt, LLP*, 481 Mich 419, 425; 751 NW2d 8 (2008).

Both the Elliott-Larsen Civil Rights Act (ELCRA) and Title VII of the Civil Rights Act of 1963 (Title VII) prohibit an employer from discriminating against an individual because of race. MCL 37.2202; 42 USC 2000e-2. "The ultimate question in an employment discrimination case is whether the plaintiff was the victim of intentional discrimination." *Hecht v Nat'l Heritage Academies, Inc*, 499 Mich 586, 606; 886 NW2d 135 (2016). Unlawful discrimination can be proven with either direct evidence or circumstantial evidence. *Id.* at 607-608. Direct evidence is "evidence which, if believed, requires the conclusion that unlawful discrimination was at least a motivating factor in the employer's actions." *Hazle v Ford Motor Co*, 464 Mich 456, 462; 628 NW2d 515 (2001). To the extent that plaintiff claims that the affidavit of Sergeant Beacham constituted direct evidence of race discrimination, we disagree. As plaintiff notes, Beacham averred in his affidavit attached to plaintiff's supplemental brief in opposition to defendant's motion that he was in a meeting in June 2016 where instructions were given to write plaintiff up "over any work-rule violation." However, that is not evidence which requires a conclusion that plaintiff was targeted because she was African-American. The fact that she was African American was not raised in that affidavit. Plaintiff may have been targeted for scrutiny because she was considered a poor employee or unsafe employee who posed a security risk to the prison. Plaintiff's supervisors may have been trying to create an additional "paper trail" to substantiate a decision to terminate plaintiff as a substandard probationary employee. In any case, Sergeant Beacham's affidavit is not direct evidence of unlawful discrimination perpetrated against plaintiff by defendant because of her race which led to her termination.

A plaintiff may also rely on circumstantial evidence to support a discrimination claim. When a plaintiff relies on circumstantial evidence a burden-shifting approach applies as set forth in *McDonnell Douglas Corp v Green*, 411 US 792; 93 S Ct 1817; 36 L Ed 2d 668 (1973), a Title VII case. See *Sniecinski v Blue Cross & Blue Shield of Mich*, 469 Mich 124, 133-134; 666 NW2d 186 (2003). Under *McDonnell Douglas*, a plaintiff can establish a rebuttable prima facie case of

² While plaintiff's complaint asserted a claim of gender discrimination, she has clearly abandoned that claim by not pursuing it in the trial court or on appeal.

race discrimination by providing admissible evidence showing that he or she: (1) belongs to a protected class; (2) was subject to an adverse employment action; (3) was qualified for the job; and (4) the adverse employment action occurred under circumstances that give rise to an inference of unlawful discrimination. See *Lytle v Malady (On Rehearing)*, 458 Mich 153, 172-173; 579 NW2d 906 (1998) (opinion by WEAVER, J.); see also *Hazle*, 464 Mich at 463 n 6 (because facts vary in discrimination cases, the elements should be tailored to fit the factual situation of the particular case). Once a prima facie case is sufficiently established, a presumption of discrimination arises. *Lytle*, 458 Mich at 173. The purpose of this prima facie test is both to eliminate the most common nondiscriminatory reasons for the employer's actions—such as poor employee performance, and to force the employer to provide a nondiscriminatory reason for the adverse employment action. *Town v Mich Bell Telephone Co*, 455 Mich 688, 695; 568 NW2d 64 (1997). After an employer defendant provides a nondiscriminatory reason for the adverse action, the presumption of discrimination is rebutted and the plaintiff must then show that the defendant's proffered reason was merely a pretext for discrimination. *Id.* at 695-697. That is, the plaintiff retains the ultimate burden of proving discrimination and must present evidence sufficient to allow a reasonable factfinder to conclude that discrimination—plaintiff's race in this case—was the defendant's true motive for the adverse employment action. *Id.* at 696.

Here, it appears that defendant presumed plaintiff established a prima facie case of race discrimination and, through its motion for summary disposition, proffered its nondiscriminatory explanation for terminating plaintiff. That explanation included that the true motivating factors for plaintiff's termination were that she was a probationary employee who had been disciplined for two major infractions—the gate incident and inappropriate computer usage—plus received a verbal warning for discussing her menstruation, in addition to receiving an unsatisfactory rating for her 12-month performance evaluation. Plaintiff's response to defendant's motion, as well as her brief on appeal, challenge defendant's proffered reasons as mere pretext for discrimination. Plaintiff claims that she received unequal discipline compared to non-African Americans who also were involved in the gate incident and used work computers for personal reasons.

Plaintiff is correct that she can attempt to prove discrimination by showing that she was treated unequally to a similarly-situated employee who was not African American. “An employer's differing treatment of employees who were similar to the plaintiff in all relevant respects, except for their race, can give rise to an inference of unlawful discrimination.” *Hecht*, 499 Mich at 608. However, to give rise to such an inference of discrimination, the “comparable employees must be nearly identical to the plaintiff in all relevant respects.” *Id.* (internal quotation marks omitted). With regard to the gate incident, plaintiff referred to two other officers who were involved, Julie Ferguson and Sergeant Beacham, and claimed that they were non-African American “similarly situated” employees. But plaintiff failed to prove that either Ferguson or Beacham were probationary employees. In fact, Beacham was a Sergeant. She also did not prove that they were performing the same assignment as plaintiff at the time of the incident—that of the “gatekeeper” at Lakeland Correctional Facility. In other words, from the record evidence it appears that only plaintiff was assigned to check the identification of prisoners coming through that facility's gate. Further, plaintiff admitted that she was given written post orders detailing the duties of her assigned position but she failed to read them; a fact which may also have contributed to the decision to give her a three-day suspension.

And with regard to the computer usage issue, plaintiff likewise failed to prove that any non-African American probationary employee was caught using the work computers for personal reasons to the same extent as plaintiff and yet was not disciplined. In fact, defendant's discipline coordinator, Nanasy, averred in her affidavit that she had never seen another investigatory report showing so much non-work-related computer usage. Moreover, and again, plaintiff admitted that she was given a copy of the computer use policy but she did not read it. Although plaintiff argues that the records produced by defendant did not demonstrate that any other employee was terminated for personal computer usage, plaintiff also was not terminated for computer usage. Rather, plaintiff was terminated because she was already on an extended probationary period for an unsatisfactory performance rating and this was her second major rule violation during her short tenure. Further, other than listing names of other employees who supposedly used work computers for personal reasons, like Lucus Losinski, and persons with the last names of Veysey-White and Mohon, no other information was provided, and thus, no reasonable comparison could be made as to whether they were actually "similarly situated" employees. See *Hecht*, 499 Mich at 608.

In summary, in response to defendant's motion for summary disposition plaintiff had to show by a preponderance of admissible direct or circumstantial evidence that there was a triable issue that defendant's proffered reasons for her termination were not true reasons, but were a mere pretext for discrimination. See *Lytle*, 458 Mich at 174-176. And considering the evidence in the light most favorable to plaintiff, plaintiff failed to raise a triable, genuine issue of fact regarding whether her race was a determining factor in the decision to terminate her. Plaintiff failed to establish a genuine issue of fact that defendant's proffered reasons for her termination were a mere pretext for race discrimination. Thus, the trial court did not err in granting defendant's motion for summary disposition and dismissing plaintiff's employment discrimination claim based on race.

Plaintiff next argues that the trial court erred in dismissing her retaliation claim. In particular, plaintiff argues that her 12-month unsatisfactory performance rating was an act of retaliation because she submitted an internal complaint alleging discrimination. We conclude that this retaliation claim was also properly dismissed.

Under the ELCRA an employer may not retaliate against a person because the person filed a complaint alleging discrimination under that act. See MCL 37.2701(a). The elements of a prima facie case of retaliation include that (1) the plaintiff was engaged in protected activity; (2) the defendant knew it; (3) the defendant took an adverse employment action against the plaintiff; and (4) there was a causal connection between the protected activity and the adverse employment action. *Garg v Macomb Co Community Mental Health Servs*, 472 Mich 263, 273; 696 NW2d 646, amended 473 Mich 1205 (2005) (citation omitted).

The issue in this case is causation. In the absence of direct evidence of retaliation, plaintiff must rely on indirect evidence of her employer's unlawful motivations to establish a causal link between her filing the internal discrimination complaint and her receiving an unsatisfactory performance evaluation. See *Debano-Griffin v Lake Co*, 493 Mich 167, 176; 828 NW2d 634 (2013). In this case, plaintiff claimed that near the time when her 12-month performance evaluation was coming due, she asked Captain DeKeyser if her review was completed. When he said that it was not ready, she told him that she believed she was being discriminated against and that was the reason for the delay. Then on June 20, 2016, plaintiff argued, she filed an internal written complaint claiming that she was being discriminated against because of her gender and

race. The next day, June 21, 2016, she received her unsatisfactory performance evaluation. Plaintiff argues that because of the close temporal proximity between these two occurrences, a jury could infer that the unsatisfactory performance review was retaliatory.

However, a mere coincidence in time between the protected activity and the adverse employment action is not sufficient—standing alone—to establish a retaliation claim. *West v General Motors Corp*, 469 Mich 177, 186; 665 NW2d 468 (2003). In this case, plaintiff did not indicate that Captain DeKeyser responded in any way to plaintiff’s verbal claim of discrimination. See *id.* at 186-187, citing *Henry v Detroit*, 234 Mich App 405, 414; 594 NW2d 107 (1999) (where superior expressed clear displeasure at the plaintiff’s protected activity). Plaintiff also did not establish that Captain DeKeyser even knew that plaintiff had filed a written complaint claiming discrimination. Further, plaintiff admitted that her 12-month performance evaluation was actually due at the time she received it.³

And we note that plaintiff’s eight-month performance evaluation also indicated that plaintiff needed to improve in some of the same competencies that she was shown to be deficient on the 12-month performance evaluation; namely, in the areas of communication and interpersonal skills. In other words, plaintiff’s prior evaluation was not impeccable. See, e.g., *West*, 469 Mich at 187. Further, it appears that plaintiff received a verbal warning in May of 2016 by Lieutenant Borst for discussing her personal health issues in front of prisoners and staff. We also note that Captain DeKeyser appears to have performed both the eight-month and 12-month performance evaluations. While he may have considered the fact that plaintiff “met expectations” for an eight-month probationary employee, he may have deemed plaintiff’s deficiencies too numerous for an employee who had been on the job for over twelve months. In other words, after a year on the job, he may have expected plaintiff to have improved and to be performing at a higher level. In any case, plaintiff is not immunized from legitimate adverse employment actions merely because she engaged in protected activity around the same time. See *id.* In this case, plaintiff failed to present sufficient evidence from which a reasonable factfinder could conclude that her 12-month unsatisfactory performance rating was an act of retaliation because she submitted an internal complaint alleging discrimination. The close temporal proximity between these two occurrences alone is insufficient to support an inference of retaliation. And to the extent that plaintiff claims that her termination was also in retaliation for filing that internal complaint, she has likewise failed

³ Defendant also states in its appeal brief that plaintiff was provided an unsigned copy of the 12-month performance review “a full week before she filed the complaint,” which she acknowledged in that internal complaint alleging discrimination.

to present sufficient evidence—or really any evidence—to give rise to such an inference. Accordingly, the trial court properly granted defendant’s motion for summary disposition of plaintiff’s retaliation claim.

Affirmed.

/s/ Christopher M. Murray

/s/ Mark J. Cavanagh

/s/ Thomas C. Cameron